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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,087	10/11/2005	Rainer Klusemann	AP 10670	6636

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EXAMINER

SCHWARTZ, CHRISTOPHER P

ART UNIT	PAPER NUMBER
3683	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/14/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/553,087

Applicant(s)

KLUSEMANN ET AL.

Examiner

Christopher P. Schwartz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 9-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date ____.

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

Christopher P. Schwartz
CHRISTOPHER P. SCHWARTZ
PRIMARY EXAMINER

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed October 10, 2005 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered.

Claim Objections

2. Claim 9 is objected to because of the following informalities: Claim 9 "brake" has been misspelled midway down. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 10-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 10 it is unclear if the "first operating mode" is the same as the one claimed in claim 9. Also, the limitation "the previous operating interval" lacks antecedent basis and is confusing. It is unclear what this means.

Claims 11-13 contain the same problem as claim 10 in regard to the (double) claiming of the first and second modes. For example in claim 12 how (or why)

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can/would wheel speed values be present (as claimed in claim 9) if the ignition is switched off.

Regarding claim 15 the last three lines are not clearly understood. Specifically it is unclear what is meant by the limitation "the parking brake is driven in a contrary case". What are the metes and bounds of "in a contrary case"?

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 9-12,14 are rejected under 35 U.S.C. 102(b) as being anticipated by Yanaka et al. '796.

Regarding claims 9,15 (as best understood) Yanaka et al. discloses a method for operating an electromechanical parking brake having an electronic control unit 20, which can receive wheel speed values from speed sensors 26A,26B, with parking brake units at 11,12 than can be operated by electrical motor 15.

As broadly claimed the parking brake is capable of being driven in a "first operating mode" when there are no wheel speed values i.e. when the vehicle is stationary, and in a "second mode" when wheel speed values are present i.e. when the vehicle is in motion (see col. 12 lines 52-59).

Regarding claims 10,12, as best understood, these requirements are met.

Regarding claim 11, as broadly claimed, if the operator does not select or assign the second operating mode to the parking brake using the AUTO MODE selector 21, the parking brake will be driven in a first operating mode.

Regarding claim 14, as broadly claimed, these requirements are met. See col. 6 lines 45-55.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claim 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yanaka et al. in view of the U.S. publication to Witzler et al.

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Regarding claim 13 although Yanaka et al. lacks a specific discussion of applying the parking brakes when the ignition key is removed the reference to Witzler et al. (see paragraph 0010) teaches that the parking brakes may be applied in this event.

It would have been obvious to the ordinary skilled worker in the art at the time of the invention to have modified Yanaka et al. accordingly to add an extra element of safety to the device of Yanaka et al.

10. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yanaka et al.

Regarding claim 16 although Yanaka et al. does not discuss using an indicator light to indicate the status/mode of the parking brake they do state in col. 6 lines 7+ that the AUTO and MANUAL mode selectors are disposed on an instrument panel. It would have been an obvious expedient to add indicator lamps to show the particular mode of operation of the parking brake.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure..

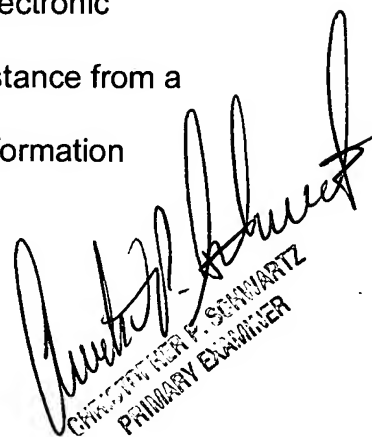
12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher P. Schwartz whose telephone number is 571-272-7123. The examiner can normally be reached on M-F 10:30-7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jim McClellan can be reached on 571-272-6786. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Cps
2/12/07


CHRISTOPHER F. SCHWARTZ
PRIMARY EXAMINER